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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,428	10/07/2003	Peng Soon Wong	WONG3017/JEK	3475
23364 7590 10/19/2004				
BACON & THOMAS, PLLC				
625 SLATERS LANE				
FOURTH FLOOR				
ALEXANDRIA, VA 22314				
EXAMINER				
COLE, LAURA C				
ART UNIT		PAPER NUMBER		
1744				

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/679,428

Applicant(s)

WONG, PENG SOON

Examiner

Laura C Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: the rear side "20" (Page 6 Line 3). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "shield protect"

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(Claims 5 and 14) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The instant Application does not include section headings.

Claim Objections

5. Claims 1-10 and 15-16 are objected to because of the following informalities:

Claim 1 recites the limitation "the base" in Line 5. There is insufficient antecedent basis for this limitation in the claim.

In Claims 6 and 15 the degrees symbol is missing next to "10".

In Claims 7 and 16 the degrees symbol is missing next to "35".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 6-7, 11-13, 15-16, and 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Tapocik, USPN D289,826.

Tapocik discloses the claimed invention including a toothbrush body having an integral head, body, and tail portions (see Figures 1-3, the head is the uppermost portion having bristles extending, the body is the central portion, and the tail portion is the lowermost portion having a brush extending), the head comprises indents for bristles (where bristles are mounted in the Figures), the tail portion is inclined relative to the body portion (see Figure 2) and comprises an indent for receiving the base of an interdental brush (where the lowermost, interdental brush is mounted). The head comprises bristles on a front side forming a main brush (the uppermost brush; the front side being rightmost in Figure 2) and the tail portion inclined relative to the body comprises an interdental brush (the lowermost brush). The tail portion is inclined towards the front side (rightmost side, see Figure 2) and the interdental brush protrudes from a rear side of the tail portion (leftmost side of Figure 2). The tail portion appears in Figure 2 to be inclined between ten and seventy degrees, and it appears to be inclined in the range of 35 to 55 degrees.

7. Claims 1-2, 6-10, and 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ahrens et al., USPN 5,383,244.

Ahrens et al. disclose the claimed invention including a toothbrush body having an integral head (64), body (55), and tail portions (54), the head comprises indents for bristles (where bristles are mounted in the Figures), the tail portion is inclined relative to the body portion (see Figures 3 and 4B) and comprises an indent for receiving a base of an interdental brush (interdental brush "60" includes bristles "61" that are received in individual indents). The head comprises bristles (62) on a front side thereof (the front side is facing upwards in Figures 3 and 4A). The tail portion is inclined between 5 degrees and 85 degrees (Column 3 Lines 41-45). The toothbrush body is made of a plastic material with rubber portions (Column 4 Lines 15-18) that extends *substantially* along the entire length of the body portion (see Figures 3-4C how "55" covers substantially entirely the body portion) wherein all rubber portions are interconnected (as there is only one portion, it is "interconnected.")

8. Claims 1, 2, 4, 6, 11, 13, 15, and 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Florence, USPN 4,679,272.

Florence discloses the claimed invention including a toothbrush body having an integral head (28), body (2), and tail portions (16), the head comprises indents for bristles (Column 2 Line 67 to Column 3 Line 1), the tail portion is inclined relative to the body portion (see Figure 1) and comprises an indent for receiving a base of an interdental brush (the indent is 18, the interdental brush is "26"). The head comprises bristles (6) on a front side thereof (the front side is upwards in Figure 1). The interdental

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brush protrudes from a rear side of the tail portion (rear side is downwards in Figure 1). The tail portion is inclined between sixty five and seventy degrees (Column 3 Lines 28-30).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 8-10 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Florence, USPN 4,679,272 in view of Ahrens et al., USPN 5,383,244.

Florence discloses all elements above, however does not include a body made of plastic material with rubber portions.

Ahrens et al. disclose all elements above, including a body made of plastic material with rubber portions (Column 4 Lines 15-18), wherein the rubber on a rear of the body extends substantially along the entire length of the body portion (see Figures 3-4C how "55" covers substantially entirely the body portion) wherein all rubber portions

are interconnected (as there is only one portion, it is "interconnected") in order to facilitate a suitable grip surface.

It would have been obvious for one of ordinary skill in the art to modify Florence by constructing the body portion from plastic and rubber portions, as Ahrens et al. teach, in order to provide a suitable gripping surface for a brush used to clean tooth surfaces.

10. Claims 8-10 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tapocik, USPN D289,826 in view of Ahrens et al., USPN 5,383,244.

Tapocik discloses all elements above, however does not disclose a material used to construct a body, specifically plastic material with rubber portions.

Ahrens et al. disclose all elements above, including a body made of plastic material with rubber portions (Column 4 Lines 15-18), wherein the rubber on a rear of the body extends substantially along the entire length of the body portion (see Figures 3-4C how "55" covers substantially entirely the body portion) wherein all rubber portions are interconnected (as there is only one portion, it is "interconnected") in order to facilitate a suitable grip surface.

It would have been obvious for one of ordinary skill in the art to modify Tapocik by constructing the body portion from plastic and rubber portions, as Ahrens et al. teach, in order to provide a suitable gripping surface for a brush used to clean tooth surfaces.

11. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tapocik, USPN D289,826 in view of Chan, USPN 5,522,109.

Tapocik discloses all elements above, however does not include a shield protect.

Chan discloses a double-headed toothbrush that includes a shield protect (40) for the brush head that is not in use (Column 4 Lines 6-9).

It would have been obvious for one of ordinary skill in the art to further include a shield protect that Chan teaches to the device of Tapocik in order to guard and protect the brush head that is not in use.

12. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Florence, USPN 4,679,272 in view of Chan, USPN 5,522,109.

Florence discloses all elements above, however does not include a shield protect.

Chan discloses a double-headed toothbrush that includes a shield protect (40) for the brush head that is not in use (Column 4 Lines 6-9).

It would have been obvious for one of ordinary skill in the art to further include a shield protect that Chan teaches to the device of Florence in order to guard and protect the brush head that is not in use.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lee

LCC

15 October 2004

Robert J. Warden, Sr.

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